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PACIFIC TELESIS Group

June 16, 1994

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *GN Docket No. 93-252, Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their *"Opposition To Petitions For Reconsideration"* in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Alan F. Ciamporcero

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Sections 3(n) and 332 of the Communications Act	)	GN Docket No. 93-252
	)	
Regulatory Treatment of Mobile Services	)	

OPPOSITION BY PACIFIC BELL AND NEVADA BELL TO PETITIONS FOR RECONSIDERATION

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Date: June 16, 1994

TABLE OF CONTENTS

TABLE OF CONTENTS
(Cont'd)

SUMMARY

AMTA's proposal for a redefinition of commercial mobile radio services ("CMRS") is contrary to Congress's objective that the Commission regulate mobile services that are similar to each other under one consistent classification. AMTA, instead, proposes that the Commission apply different regulatory classifications and different levels of regulation to mobile service providers based solely on their size. Attempting to determine which carriers fall into what category at any given time would be an administrative nightmare for the Commission and the service providers. Moreover, small providers would be discouraged from expanding since increased size would subject them to more regulation. Thus, contrary to AMTA's assertion, its proposal would discourage job creation by small companies. Discouraging expansion also would limit the offerings of new and lower priced services to consumers.

Contrary to the positions of MCI and NCRA, the Commission was right to look at all relevant factors in deciding whether or not to forbear from Title II tariff requirements, rather than applying a dominant/non-dominant test. The more comprehensive approach of the Commission is essential to meeting the goals of Congress to regulate all similar competitors the same and to place only necessary regulations on competitors in order to allow the emerging CMRS marketplace to be fully competitive and bring new, lower priced services to consumers.

Heavy "dominant carrier" regulation of providers that currently have high market shares would serve the interests of MCI and NCRA to hold back many of the most efficient competitors and create a price umbrella under which MCI and NCRA members can

price without fear of competition. But that would not serve the public interest in obtaining the new, lower priced services for consumers which will come with full competition. Therefore, contrary to MCI's and NCRA's objections, consideration of emergent competition (with expanding output, entry, and capacity) in the CMRS marketplace should remain central to the Commission's forbearance analysis. Rapidly expanding entry, output, and capacity in the CMRS marketplace are aptly exemplified by MCI's own $1.3 billion investment in the leading SMR, Nextel, announced February 28, 1994.

MCI gives as examples of so-called "dominant carriers" both facilities-based cellular carriers and LECs. Regardless of the status of cellular carriers, LECs such as Pacific Bell and Nevada Bell that are not affiliated with cellular providers are clearly non-dominant in the CMRS marketplace. The cellular affiliate of Pacific Bell and Nevada Bell has been spun off. If we are successful in obtaining a PCS license, we will be an independent CMRS provider with no market share and will need to build our PCS facilities. We will face strong competition from AT&T/McCaw, AirTouch Communications, Cox and other cable companies, GTE Mobilnet, BellSouth/Lin Broadcasting, MCI/Nextel, and a host of other new market entrants.

Contrary to MCI's arguments, the Commission's decision to temporarily forbear from tariff requirements for CMRS access was rationally based on the record in this proceeding, which establishes that the whole CMRS marketplace is subject to rapid competitive expansion. In addition, the Commission has properly recognized state authority over carrier-to-carrier financial arrangements, including mutual compensation.

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OPPOSITION BY PACIFIC BELL AND NEVADA BELL TO PETITIONS FOR RECONSIDERATION

Pacific Bell and Nevada Bell submit the following opposition to certain petitions for reconsideration or clarification of the Second Report and Order ("Order") in the above-captioned proceeding. Specifically, we oppose the petitions filed by the American Mobile Telecommunications Association, Inc. ("AMTA"), MCI Telecommunications Corporation ("MCI"), and the National Cellular Resellers Association ("NCRA"). We also oppose that portion of the petition for clarification by McCaw Cellular Communications, Inc. ("McCaw") concerning intrastate mutual compensation requirements.

I. INTRODUCTION

In the Order, the Commission took two fundamental steps toward ensuring that regulation does not frustrate the efficient development of commercial mobile radio services ("CMRS"). First, the Commission defined CMRS broadly so that all competing mobile providers are treated under the same federal regulatory framework. This approach encourages fair, even-handed competition.

Second, the Commission forbore from requiring or allowing the tariffing of interstate CMRS offered by any service provider to any type of customer, whether for end-to-end or access service. This broad tariffing forbearance helps ensure that all competing service providers can move prices for all customers quickly, based on marketplace needs, without signalling price moves to other competitors and without sustaining unnecessary costs.

In taking these two initial steps, the Commission has started along the right path. With mobile services, the Commission has the opportunity to avoid regulatory distinctions among competitors. Avoiding unnecessary distinctions and regulations will allow all competitors to start at the same streamlined level of regulation. This will allow fair competition and market demand to define the parameters of the industry, rather than regulatory planning and fiat or gaming of the regulatory process by parties. Efficient competitors who meet the demands of the market will flourish. Others may fail. If the Commission continues along this path, the result will be an industry that efficiently meets the needs of consumers and abundantly supports the national economy.

AMTA, MCI, and NCRA seek to undo this positive beginning. AMTA asks the Commission to narrowly redefine CMRS so that certain smaller competitors will be regulated more lightly as private carriers. MCI and NCRA ask the Commission to single out certain so-called "dominant carriers" to remain subject to tariffing requirements for interstate CMRS. The statute does not make these distinctions and neither should the Commission.

In the Order, the Commission also appropriately limited its preemption to jurisdictionally inseparable interconnection requirements, while leaving decisions on intrastate mutual compensation to the states. Contrary to this limited preemption, MCI and McCaw ask the Commission to clarify that the states must adopt mutual compensation requirements for CMRS. The Commission should deny these requests as directly contrary to its legally sound decisions to avoid interfering with state regulation that does not frustrate the Commission's federal regulation.

II. THE COMMISSION SHOULD RETAIN ITS BROAD DEFINITION OF CMRS

AMTA asserts that the Commission's definition of CMRS is overly broad and proposes a definition that excludes systems that are limited "in terms of geographic coverage or capacity."[1] AMTA suggests a definition from the Commission's Competitive Bidding Proceeding[2] of either "small entity" (based on net revenues) or "rural telephone company" (based on number of lines of service). AMTA's goal is to avoid "the possibility of unnecessary and unforseen regulatory burdens."[3]

AMTA's proposal is contrary to Congress's objective to ensure 1) that similar mobile services are subject to consistent regulatory classification[4] and 2) that an appropriate level of

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1 AMTA, p. 5.

2 Id. at 6-7.

3 Id. at 7.

4 See Order, para. 13.

regulation is established and administered for CMRS providers.[5] Under AMTA's proposal, the Commission would not regulate mobile services that are similar to each other under one consistent classification, or apply an appropriate level of regulation. Instead, AMTA proposes that the Commission apply different regulatory classifications and different levels of regulation to mobile service providers based solely on their size. Thus, the identical mobile service would be regulated as a common carrier service under Title II for some providers, but more lightly regulated as a private carrier service for other providers. The regulatory status of a provider's service would change whenever the size of the provider or its service rises above or drops below a certain threshold.

In addition to being contrary to Congressional intent, attempting to determine which carriers fall into what category at any given time would be an administrative nightmare for the Commission and the service providers. Moreover, small providers would be discouraged from expanding since increased size would subject them to more regulation. Thus, contrary to AMTA's assertion,[6] this proposal would discourage job creation by small companies. Discouraging expansion also would limit the offerings of new and lower priced services to consumers.

AMTA's proposal is based on a misconception of the mobile services industry. AMTA assumes that ESMR and PCS, as well as cellular, will be provided solely by large providers, and that other mobile services will be provided solely by small

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[5] Id. at para. 14.

[6] AMTA, p. 9.

providers.[7] AMTA is wrong. On the one hand, there is likely to be an increased convergence of types of services, including the various mobile services, into large networks. This is evidenced by the AT&T/McCaw merger proposal and the MCI alliance which includes the leading SMR, Nextel. On the other hand, the Commission is encouraging small entities, rural telephone companies, and other "designated entities" to bid in auctions that will include PCS.

Therefore, AMTA's proposal is based on a false view of the dynamic telecommunications industry. That false view serves AMTA's goal to obtain protection for certain competitors.[8] It does not, however, serve the Commission's "objective to promote and protect competition, not specific competitors."[9] Promoting competition among all types of services and service providers will bring new and lower priced services to consumers.

III. THE COMMISSION SHOULD CONTINUE ITS EVEN-HANDED FORBEARANCE FROM REQUIRING CMRS TARIFFS

A. Applying A Dominant/Non-Dominant Framework To The Forbearance Of CMRS Tariff Requirements Would Frustrate The Goals Of Congress And The Commission

MCI states that the Commission's decision to forbear from tariffing requirements was based in part on the incorrect

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[7] See AMTA, p. 6.

[8] AMTA's proposal is based on the unsupported premise that a service provider's size should determine the degree of regulation that it receives. The Commission has asked for comments on that issue concerning specific provisions of Title II regulation in its Further Forbearance proceeding in GN Docket No. 94-33.

[9] Order, para. 105.

assumption "that all providers of CMRS are today, and will in the future be, 'non-dominant carriers' operating in 'competitive markets'."[10] MCI further states "that the Commission should vacate its decision to forbear from tariff regulation of end user CMRS offerings of all dominant carriers, e.g., LECs and facilities-based cellular carriers."[11] Similarly, NCRA states: "The Commission's vision of a future competitive cellular marketplace cannot justify current unreasonable and discriminatory cellular rates. In light of current market conditions, the Commission can not ensure just and non-discriminatory rates without direct oversight of, instead of monitoring, cellular carriers' rates."[12]

The assertions of MCI and NCRA are examples of parties competing in the regulatory arena rather than the marketplace. Their assertions are without merit for a number of reasons that are discussed in the sections that follow.

1. The Commission did not forbear based on an assumption of non-dominance

Contrary to MCI's statement, the Commission did not assume that all CMRS providers are non-dominant. Based on the record, the Commission recognized that CMRS providers other than cellular providers are non-dominant and that the markets other than cellular are fully competitive.[13] The Commission did not

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[10] MCI, p. 3.

[11] Id. at 6.

[12] NCRA, p. 17.

[13] See, Order, paras. 174-5.

attempt to use the record to determine whether cellular providers are currently non-dominant.

The Commission instead reviewed the record and "concluded that although the record does not support a finding that the cellular services marketplace is fully competitive, the record does establish that there is sufficient competition in this marketplace to justify forbearance from tariffing requirements."[14] The Commission discussed a number of factors supporting both this conclusion and its public interest finding in favor of forbearance from tariffing requirements for cellular providers.[15] None of the factors depended on any assumptions concerning current non-dominance of cellular providers.

2. A dominant/non-dominant test is especially inappropriate concerning forbearance decisions in the CMRS marketplace

Contrary to the positions of MCI and NCRA, the Commission was right to look at all relevant factors in deciding whether or not to forbear from Title II regulations, rather than applying a dominant/non-dominant test. The more comprehensive approach of the Commission is essential to meeting the goals of Congress to regulate all similar competitors the same and to place only necessary regulations on competitors in order to allow the emerging CMRS marketplace to be fully competitive and bring new, lower priced services to consumers.

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[14] Id. at para. 175.

[15] Id. at paras. 175, 177.

MCI is especially self-serving and extreme in its attempt to gain an unearned competitive advantage. MCI has formed an alliance with Nextel. Because Nextel has long been regulated on a very streamlined basis as a private carrier, under the Commission's rules Nextel will continue to avoid CMRS regulation for three years. During those three years, MCI's alliance with Nextel will make MCI/Nextel a huge force in the CMRS market. While its vast alliance will be nearly unregulated, MCI seeks to have its competitors heavily regulated as so-called "dominant carriers."

Heavy "dominant carrier" regulation of providers that currently have high market shares would serve the interests of MCI and NCRA to hold back many of the most efficient competitors and create a price umbrella under which MCI and NCRA members can price without fear of competition. But that would not serve the public interest in obtaining the new, lower priced services for consumers which will come with full competition.

Therefore, contrary to MCI's and NCRA's objections, consideration of emergent competition (with expanding output, entry, and capacity) in the CMRS marketplace, rather than dominance based on market share, should remain central to the Commission's forbearance analysis. In Docket 90-132, concerning competition in the interexchange market, the Commission recognized that "market share alone is not necessarily a reliable measure of competition, particularly in markets with high supply and demand elasticities."[16] The Commission found that "the

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[16] Competition in the Interstate Interexchange Marketplace, CC Dkt. No. 90-132, Report and Order, 6 FCC Rcd 5880, 5890, para. 51 (1991).

relative supply capabilities of competitors in the market" may be "more indicative of the level of competition" than are market share data.[17] The Commission stated:

> Relative supply capabilities allow an assessment of supply elasticity, which refers to the ability of competitors in a market to meet additional demand, beyond that which they currently meet. Supply elasticities are important because even if one company enjoys a very high market share, it will be constrained from raising its prices above cost if its competitors have, or could easily acquire, the capacity to serve its customers at current price levels.[18]

Consistent with the Commission's analysis, the courts have found that in markets with ease of entry that are experiencing substantial entry and output expansion, "market share is not a good measure of market power."[19]

MCI/Nextel

Rapidly expanding entry, output, and capacity in the CMRS marketplace are aptly exemplified by MCI's own $1.3 billion investment in the leading SMR, Nextel, announced February 28, 1994. According to MCI Chairman Bert Roberts, the MCI/Nextel/Comcast alliance is "bringing together partnerships

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[17] Competition in the Interstate Interexchange Marketplace, CC Dkt. No. 90-132, Notice of Proposed Rulemaking, 5 FCC Rcd 2627, para. 51 (1990).

[18] Id. (emphasis added).

[19] See William M. Landes and Richard A. Posner, "Market Power In Antitrust Cases," 94 Harv. L. Rev. 937, 950 (1981).

that can make things happen quickly."[20] The joint corporate press release boasts that the deal jumpstarts MCI into PCS this year and brings "enhanced flexible services to consumers, business and government customers far sooner than generally had been expected...[Nextel's] first digital network is already serving customers in the Los Angeles area and will stretch across California within the next few months."[21] Nextel's Chairman, Morgan E. O'Brien, is quoted as saying that the "alliance means that everyone else will be playing catch up."[22] Investment analysts apparently agree. In response to MCI's announcement, a telecommunications analyst is quoted as saying that "all industry players are going to have to become more aggressive in offering wireless services in their local markets. 'There was never any incentive' before MCI's announcement, he adds. 'Now the pressure's on.'"[23]

Nextel already has invested "approximately $300 million" in California, and it began offering service in Los Angeles last year.[24] Nextel is positioned as the only provider

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[20] Jeannine Aversa, "MCI enters the wireless communications areas," San Francisco Examiner, March 1, 1994, at D4.

[21] Connie Weaver, "MCI Will Invest $1.3B in Nextel to Offer Nationally Branded Wireless Service," Corporate Release, February 28, 1994, at 1.

[22] Id.

[23] Leslie Cauley, "MCI's Entry Adds New Dimension To Wireless Race; Marketing Muscle, Not Technology, Could Be The Determining Factor," Wall Street Journal, March 1, 1994, at B4.

[24] Investigation on the Commission's Own Motion into Mobile Telephone Service and Wireless Communications ("CPUC Mobile Services Proceeding"), California P.U.C., I. 93-12-007, Nextel Opening Comments (February 25, 1994), p. 3.

of seamless mobile telephone service from Mexico to Oregon.[25] Nextel has converted its spectrum to advanced cellular-like services,[26] and Nextel acknowledges that it will be a vigorous competitor nationwide in the near future, offering service in the top ten markets with access to 180 million people.[27]

Output

CMRS output has been booming for some time. The number of cellular customers has grown as much as 30% per year over the past few years.[28] PCS providers expect to see wireless growth continue as prices drop. Cellular prices in the United Kingdom dropped by 20-33% when PCS was introduced.[29] It has been

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[25] See, CPUC Mobile Services Proceeding, Comments of Contel (February 25, 1994), p. 28.

[26] For example, Nextel has begun to implement its Enhanced Specialized Mobile Radio ("ESMR") system that uses digital speech coding, Time Division Multiple Access transmission and frequency reuse that it asserts will yield a 50 times increase in the capacity of its existing SMR systems. See, In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, FCC Dkt. No. 90-314, Nextel's "Reply To Oppositions To Petitions For Reconsideration" (January 13, 1994), pp. 1-2. Nextel receives financial support from Motorola, Northern Telecom, Matsushita, Comcast and IPC. Its plan is to begin operations first in Los Angeles, then in the San Francisco Bay Area, with statewide access to follow in late 1994. See, Competition and Open Access in the Telecommunications Markets of California, Dr. Peter Huber, (1993) attached as Exhibit A to Pacific's Comments in the California PUC's Unbundling OIR proceeding, filed February 8, 1994, pp. 49-50 (hereinafter referred to as "Dr. Huber's Competition Report").

[27] Nextel Opening Comments, supra., n. 6.

[28] CPUC Mobile Services Proceeding, Bay Area Cellular Telephone Company Comments (February 25, 1994), pp. 5-6.

[29] See, CPUC Mobile Services Proceeding, Comments of Pactel Cellular (February 25, 1994), p. 51.

estimated that there may be over 60 million PCS users nationwide in ten years.[30]

Entry

The CMRS marketplace is on the verge of tremendous new entry. With the aim of promoting competition with cellular providers and making PCS a "mass market" service, the FCC's PCS plan envisions as many as six licensees in each geographical area. Many new wireless providers will be very large, well-financed companies (e.g., most notably AT&T/McCaw, MCI, and many cable companies[31] including Cox Cable). Cellular companies also are likely to bid on licenses outside their current operating areas to expand their geographic coverage into areas already served by other cellular providers. All these "new" entrants will pose a very aggressive competitive challenge to the present cellular incumbents.

Capacity

CMRS capacity also is booming. The initial round of spectrum auctions will make available more than twice the spectrum currently in use. Over the next couple of years, NTIA will free up 50 more Mhz, and make available an additional 150

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[30] See, In Re Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Dkt. No. 90-314, Notice of Proposed Rulemaking and Tentative Decision, 77 FCC Rcd 5676, 5688 (1992).

[31] Cable companies have received more of the FCC's experimental licenses than all seven RBOCs combined. Dr. Huber's Competitive Report, p. 52.

Mhz over the next 15 years.[32] New entrants to the wireless market will be able to choose from among many different backbone network facilities for backhaul and interconnection. These facilities will be made available by CAPs, cable companies, radiotelephone utilities, LECs, and IXCs (notably MCI). The FCC also has allocated additional spectrum to mobile satellite service competitors, and development in that market segment merits consideration in the evaluation of the wireless market.[33]

Not only is new spectrum becoming available, but there are changes in radio technology that allow many more people to have access to wireless communications. Digital compression technology is expected to increase wireless capacity from five to twenty times over today's levels. The use of additional cells can provide virtually unlimited capacity.[34]

In sum, the CMRS market is changing now. New providers are building and expanding their networks. Wireless consumers have choices today and will have more choices of services and providers very soon. Unnecessary regulation is simply going to stand in the way of this development, and will increase costs to all providers, whether classified as dominant or non-dominant. A balance of market forces and regulatory monitoring of the market will best meet the Commission's goals of streamlining regulation,

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[32] National Telecommunications and Information Administration, Preliminary Spectrum Reallocation Report, NTIA Special Publication 94-27 (February 1994), p. iii.

[33] In the Matter of Amendment of Section 2.106 of the Commission's Rules to Allocate the 1610-1626.5 Mhz and the 2483.5-2500 Mhz Bands for Use by the Mobile-Satellite Service, ET Dkt. No. 92-28, Report and Order, released January 12, 1994, para. 1.

[34] See, Dr. Huber's Competition Report pp. 51-52.

encouraging competition, increasing customer choice, decreasing prices, and curbing potential abuses.

The Commission recognized all this in its decision to forbear from requiring CMRS tariffs. The Commission should not be swayed from its course by parties such as MCI and NCRA who are attempting to slow down their competitors in order to protect themselves and obtain a price umbrella under which they can comfortably price without fear of full competition.

3. If a dominant/non-dominant test were applied, LECs such as Pacific Bell and Nevada Bell that are not affiliated with cellular providers would be found clearly non-dominant in the CMRS marketplace

MCI gives as examples of so-called "dominant carriers" both facilities-based cellular carriers and LECs.[35] Regardless of the status of cellular carriers, LECs such as Pacific Bell and Nevada Bell that are not affiliated with cellular providers are clearly non-dominant in the CMRS marketplace.

The cellular affiliate of Pacific Bell and Nevada Bell has been spun off. If we are successful in obtaining a PCS license, we will be an independent CMRS provider with no market share. We will be a new entrant, and will need to build our PCS facilities. We will be just one provider among many, and we will face strong competition from AT&T/McCaw, AirTouch Communications, Cox and other cable companies, GTE Mobilnet, BellSouth/Lin Broadcasting, MCI/Nextel, and a host of other new market entrants.

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[35] MCI, p. 6.

We believe that we and all these other CMRS competitors should be regulated under the same streamlined process with Commission forbearance from tariff requirements. But in no event could Pacific Bell and Nevada Bell justifiably face heavier regulation than MCI or any other entrants. Heavier regulation for us would serve MCI's competitive interests, but it would disserve the interest of the public in receiving the benefits of full and fair competition in the CMRS marketplace.

B. The Commission Should Confirm Its Temporary Forbearance From Requiring CMRS Providers To File Interstate Access Tariffs

MCI asks the Commission to reverse its decision to temporarily forbear from requiring CMRS providers to file tariffs for interstate access service.[36] In support of its request, MCI makes a number of incorrect assertions which are discussed below.

Competition

MCI asserts that CMRS competition is inadequate to justify forbearance.[37] We have shown above in Section A that this assertion is wrong.

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[36] Id. at 7.

[37] Id.

Record Support For Forbearance

MCI asserts that there is no record evidence to support forbearance from requiring CMRS access tariffs.[38] MCI is again wrong.

The same extensive record evidence that supports the Commission's forbearance from requiring tariffs for interstate CMRS purchased primarily by end users supports forbearance concerning interstate CMRS access. Although MCI states that the "entire discussion of detariffing issue [sic] in the R&O (paras. 173-178) is devoted to end user tariffs," that discussion actually relates to CMRS tariffs in general. The discussion is based on a consideration of pleadings filed on various aspects of CMRS, including NCRA's arguments concerning forbearance as to both wholesale and retail services.[39] The Commission forbore from requiring tariffs for interstate CMRS access "because of the presence of competition in the CMRS market,"[40] and there is extensive evidence in the record concerning CMRS competition.[41]

The Public Interest

MCI asserts that the Commission has not found that forbearance concerning CMRS access tariffs is in the public interest and that the Commission's acknowledgement of uncertainty about the public interest prevents it from temporarily

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38 Id.

39 Order, paras. 169-170.

40 Id. at para. 179.

41 See, e.g., id. at paras. 126-154.

forbearing.[42] Actually, the Commission gave numerous reasons why "it is reasonable to conclude, as required by Section 332(c)(1)(C), that forbearance at this time will 'promote competitive market conditions' and will enhance competition among CMRS providers" and why "retaining tariffs under these conditions may limit competition."[43] Accordingly, the Commission concluded that forbearance from requiring tariff filings by CMRS providers is in the public interest.[44] Based on that conclusion and its other findings, the Commission decided to forbear concerning tariffs for interstate services offered directly by CMRS providers to their customers and temporarily for CMRS providers' interstate access services.[45]

Thus, the Commission's forbearance concerning CMRS access tariffs was based on public interest and other findings that were made after review of the entire record. The Commission's acknowledgement that subsequent proceedings may raise other public interest factors that it will consider does not in any way diminish the rational basis for its current decision. Certainty is not a requirement for administrative decision making. The Commission has made it clear that it will ensure that its approach to the fast-changing mobile industry remains in the public interest by continuing to review issues that arise.

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[42] MCI, pp. 7-8.

[43] Order, para. 177.

[44] Id.

[45] Id. at 179.

Notice

MCI asserts that the Commission did not give adequate notice that it was considering forbearance from tariffing requirements for CMRS access.[46] Again, MCI is wrong. The Commission's notice was broad enough to cover this issue. The Commission requested comments on whether the public interest would be served by forbearance from application of Sections 203, 204, 205, 211, and 214 of Title II to commercial mobile service providers and tentatively concluded that it should.[47] The Commission also requested comments on whether it should require CMRS providers to provide interconnection to other mobile service providers and on whether PCS providers should be subject to equal access obligations.[48]

Therefore, the Commission gave notice that it was considering complete forbearance of CMRS tariff requirements. The Commission was not required to provide any greater specificity in order to include CMRS access, especially since the Commission gave notice that the rulemaking proceeding included issues involving interconnection and access services.

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[46] MCI, p. 8.

[47] Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Notice of Proposed Rulemaking, released October 8, 1993, paras. 63, 65.

[48] Id. at para. 71.

Definition Of CMRS Access

MCI also objects that the Commission did not define CMRS access. A formal definition was not needed since the principle of providing access to CMRS networks is similar to that of providing access to other networks by carriers or end users so that networks may be used together. In addition, the Commission discussed issues concerning specific forms of CMRS access.[49] In its comments in this proceeding, MCI itself raised "the issue of whether CMRS providers' interconnection obligations include providing access to mobile location data bases, and providing routing information to interexchange carriers and other carriers."[50]

Contrary to MCI's unsupported assertions, there is no risk that forbearance here "may result in the detariffing of a substantial portion of LEC interstate access offerings,"[51] including access to "LEC end office and tandem switching, LEC transport, and associated signalling facilities and services."[52] Such broad forbearance is beyond the scope of this proceeding.

The Commission will review issues concerning longer term forbearance from tariffing requirements for CMRS access in an interconnection proceeding and in response to MCI's petition

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49 Order, para. 237.

50 Id.

51 Id.

52 Id.